

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

301 State House
(317) 232-9855

FISCAL IMPACT STATEMENT

LS 7791

BILL NUMBER: HB 1628

DATE PREPARED: Jan 11, 1999

BILL AMENDED:

SUBJECT: IURC enforcement authority.

FISCAL ANALYST: Brian Tabor

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FUNDS AFFECTED: **GENERAL**
 X DEDICATED
 FEDERAL

IMPACT: State

Summary of Legislation: This bill gives the Indiana Utility Regulatory Commission (IURC) authority to impose certain penalties on a utility over which the Commission has jurisdiction if the utility violates Indiana utility law or fails to comply with an order of the Commission or a division of the Commission. It provides that the Commission may impose the following penalties:

- (1) A civil penalty of not more than \$25,000 for each violation.
- (2) A cease and desist order.
- (3) An order that the utility take corrective action to remedy the violation.
- (4) Revocation or modification of the utility's certificate of territorial authority, certificate of public convenience and necessity, or other permit issued by the Commission.

The bill authorizes the Attorney General to bring an action to enforce an order of the Commission to impose a penalty. Civil penalties collected under an order issued by the Commission would be deposited in the Commission's Public Utility Fund account. The Commission would be authorized to require a public utility to post a bond with the Commission to guarantee payment of any civil penalties imposed upon the public utility.

Under this proposal, the Commission or a division of the Commission could direct a utility to provide service within 24 hours of the direction if the Commission or a division determines that the provision of utility service is necessary to prevent injury to a person or to alleviate an emergency. Each day a utility fails to provide service after being directed by the Commission or a division would be considered a separate violation for purposes of the Commission's authority to impose civil penalties. This bill also repeals a superseded statute relating to the Commission's enforcement powers.

Effective Date: July 1, 1999.

Explanation of State Expenditures: This proposal would grant the IURC broader enforcement powers, including the ability to impose civil penalties, issue cease and desist orders, and modify a utility's certificate of territorial authority, certificate of public convenience and necessity, or other permit. Under current law, the IURC can only revoke a certificate or permit. While this bill would make more options available to the IURC in the event of a violation or act of noncompliance, it should not require any additional procedures or expenditures for the Commission. However, the state Attorney General may incur additional expenses if it becomes necessary to enforce any of the new orders which may be issued by the IURC.

Explanation of State Revenues: This bill would authorize the IURC to impose a penalty of up to \$25,000 on a utility for each violation or act of noncompliance. These penalties would be deposited into the Public Utility Fund, which is used for the operation of the IURC and the Office of the Utility Consumer Counselor (OUCC). It is not known in how many instances the IURC would impose monetary penalties. This bill would also allow the IURC to require utilities to post a bond which would be assumed by the Commission if assessed penalties were not paid. (If the IURC or the OUCC direct a utility to provide service in order to avoid personal injury or alleviate an emergency, each day the utility does not comply would be considered a separate violation subject to the \$25,000 penalty.)

At the end of the fiscal year, if the total public utility fees collected plus the unspent balance of the Public Utility Fund exceeds the total appropriations for the IURC and the OUCC (plus a \$250,000 contingency fund), then the IURC must compute each utility's share of the excess. This share is then deducted from any subsequent payment of the utility's public utility fees. In FY 1997, \$1,781,774 was reverted and divided by shares based on fees paid. The amount reverted for FY 1998 is not yet known.

Explanation of Local Expenditures:

Explanation of Local Revenues:

State Agencies Affected: IURC, OUCC.

Local Agencies Affected:

Information Sources: Mike Leppert, Director, Consumer Affairs, IURC, (317) 232-2714.